

United States Court of Appeals
For the Eighth Circuit

No. 13-1917

United States of America

Plaintiff - Appellee

v.

Efrain Orozco

Defendant - Appellant

Appeal from United States District Court
for the Western District of Missouri - Springfield

Submitted: October 7, 2013

Filed: October 11, 2013

[Unpublished]

Before BENTON, BEAM, and MELLOY, Circuit Judges.

PER CURIAM.

In 2011, a jury found Efrain Orozco guilty of possessing with intent to distribute 500 grams or more of a mixture containing cocaine, and possessing with intent to distribute 50 grams or more of a mixture containing cocaine base. He

appeals the 120-month prison sentence that the district court¹ imposed after this court affirmed his conviction, but remanded for resentencing in light of Dorsey v. United States, 132 S. Ct. 2321 (2012). Counsel has requested leave to withdraw and has filed a brief under Anders v. California, 386 U.S. 738 (1967), arguing that the district court abused its discretion in failing to grant a greater downward variance based on Orozco's extraordinary family responsibilities.² We conclude, however, that the sentence imposed was not substantively unreasonable. See United States v. Feemster, 572 F.3d 455, 461 (8th Cir. 2009) (en banc) (standard of review); see also United States v. Kendall, 475 F.3d 961, 963-64 (8th Cir. 2007) (discussing resentencing upon remand). Further, having reviewed the record under Penson v. Ohio, 488 U.S. 75, 80 (1988), we find no nonfrivolous issues. Accordingly, we affirm the judgment, and we grant counsel leave to withdraw.

¹The Honorable Greg Kays, United States District Judge for the Western District of Missouri.

²Orozco also sought a downward departure based on the same grounds, but we do not review a district court's discretionary decision not to grant a downward departure. See United States v. Dixon, 650 F.3d 1080, 1084 (8th Cir. 2011).